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Laurent Lesenne

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Thomson Licensing LLC

P.O. Box 5312

Two Independence Way

PRINCETON, NJ 08543-5312

EXAMINER

BEHARRY, NOEL R

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,633	Applicant(s) LESENNE ET AL.	
	Examiner NOEL BEHARRY	Art Unit 2446	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/28/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to Application No. 11/519,633 filed August 09th, 2005. Claims 1-25 have been canceled by a preliminary amendment, claims 26-54 are pending and have been examined.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

3. Claims 26, 28, 40 are objected to because of the following informalities: In particular, Claim 26 is incomplete because it ends with a comma, Claim 28 the word transmitting is misspelled, Claim 40 is incomplete and recites "said recognition unit preferably being". Examiner suggests applicant to review application for similar errors. Appropriate correction is required.

4. Claim 42 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim 42 has not been further treated on the merits.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 33 recites the limitation "transmit said action instructions in the case of such deletion" in line 4-5 of the claim. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 42 recites the limitation "activation assembly" in the last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 43-45 recites the limitation "specification module" in each of the claims. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 26, 35, 37, 46-48 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 23, 34, 47-49 of copending Application No. 10/521,302. Although the conflicting claims are not identical, they are not patentably distinct from each other because these claims are directed towards the same invention and recite the same limitations which are obvious variants of each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

11. Claims 52-54 are rejected under 35 U.S.C. 101 which reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 52-54 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

In this case, for example claim 54 recites, “computer programme product, wherein it comprises programme code instructions for executing the steps of one of the methods according to Claim 46 when said programme is executed on a computer” would normally be considered statutory unless the specification defines “computer programme product” as including intangible media such as signals, carrier waves, transmissions, optical waves, transmission media or other media incapable of being touched or perceived absent the tangible medium through which they are conveyed.

Claims 52-54 are not limited to tangible embodiments. Specifically, in view of the specifications page 21, lines 12-19, the computer programme product is not limited to tangible embodiments, instead it has been defined/exemplified as including both tangible embodiments [e.g. removable storage drive, hard disk] and intangible embodiments [e.g. signals or transmission or carrier medium/media]. As such the claim is not limited to statutory subject matter and is therefore non statutory.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 26-32, and 34-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Solvason (WO 02/21840 A2) (Applicant's IDS dated 12/28/2004).

Regarding claim 26,

recognition unit for recognizing synchronization signals in at least one audiovisual programme received, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, said recognition unit comprising:

a reception module and a recording module (106 of Fig. 1), for receiving and recording in a storage space, recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme, (a server can monitor the media signal, extract action definitions, and transmit the actions to clients, Page 10, Lines 4-6)

a reception module for receiving at least one transmitted stream carrying said audiovisual programme, (106 of Fig. 1 & Page 10, Lines 9-11)

a detection module for detecting said synchronization signals in said audiovisual programme received, by means of said recognition elements stored in said storage space, by recognition in the content of said audiovisual programme received, of said extracted portion, (106 of Fig. 1 & Page 10, Lines 1-11) and

a transmission module for transmitting action instructions in case of detection of said synchronization signals in said audiovisual programme), said instructions being designed so as to trigger at least one action. (Page 9, Lines 17-24)

Regarding claim 27,

wherein said reception and recording modules for receiving and recording said recognition elements are designed so as respectively to receive and record also at least one timeout lag and in that the timeout module is designed to use said lag. (Page 8, Line 14 – Page 9, Line 24)

Regarding claim 28,

wherein the modules for receiving and recoding recognition elements and the module for transmitting action instructions are designed so as respectively to receive, record and transmit identifiers relating to said actions to be triggered. (Page 9, Lines 11-24)

Regarding claim 29,

wherein each of said portions of content consists of at least one of the following portions: an image, an image part, a sound and any combination of at least two of said portions. (Page 9, Lines 11-24)

Regarding claim 30,

wherein said recognition elements include at least one Boolean operator, said detection module being designed to detect at least two of said portions of content in conjunction with said Boolean operator and the transmission module being designed to

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transmit said action instructions in case of such detection. (Page 10, Line 22 - Page 11, Line 8)

Regarding claim 31,

wherein said recognition elements include at least one time information item, said detection module being designed to detect said portions of content in conjunction with said time information item and the transmission module being designed to transmit said action instructions in case of such detection. (Page 8, Line 14—Page 9, Lines 24)

Regarding claim 32,

wherein said time information item comprises at least one information item chosen from among a date of detection and a detection time slot. (Page 10, Lines 12-19)

Regarding claim 34,

wherein the reception module for receiving the recognition elements is designed to directly receive said extracted portion from among said recognition elements and the recording module is designed to record said extracted portion in the storage space. (Page 10, Lines 1-11)

Regarding claim 35,

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wherein the reception module for receiving the recognition elements is designed to receive from among said recognition elements, instructions for extracting said extracted portion in at least one stream of an audiovisual programme previously received by the stream reception module, and said recording module is designed to extract directly said portion of said stream according to said extraction instructions and to record said portion in the storage space. (Page 10, Lines 12-24)

Regarding claim 36,

wherein the reception module for receiving the recognition elements is designed to receive from among said recognition elements, at least one identifier of said extracted portion, and in that said detection module is capable of retrieving from the storage space said extracted portion previously recorded and associated with said identifier, so as to recognize in the content of said audiovisual programme received said extracted portion. (Page 10, Lines 12-24)

Regarding claim 37,

specification unit for specifying synchronization signals associated with at least one audiovisual programme, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, and said synchronization signals being intended to be detected in at least one transmitted stream carrying said audiovisual programme and thus to trigger at least one action, (Page 6, 10-13 and Page 9, Lines 11-24)

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wherein said specification unit comprises:

a preparation module for preparing recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme, (Page 6, Lines 10-13) and

a transmission module for transmitting said recognition elements independently of transmissions of said audiovisual programme, to at least one recognition unit intended to detect said synchronization signals in said transmitted stream carrying said audiovisual programme, by recognizing said extracted portion in the content of said audiovisual programme, (Page 6, Lines 14-17) and

the preparation and transmission modules of said unit are designed respectively to prepare and transmit at least one action timeout lag in case of detection of said synchronization signals, (Page 8, Lines 14-24)

said specification unit preferably being capable of cooperating with said recognition unit. (Fig. 1A)

Regarding claim 38,

wherein the preparation and transmission modules of said unit are designed respectively to prepare and transmit identifiers relating to said actions to be triggered in case of detection of said synchronization signals. (Page 9, Lines 11-24)

Regarding claim 39,

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wherein said action identifiers relate to at least one of the following actions:
broadcasting of an interactive service, triggering of an interactive service, triggering of an update of an interactive service, triggering of a recording of said audiovisual programme and connection to a website. (Page 9, Lines 11-24)

Regarding claim 40,

assembly for activation by recognition of synchronization signals in at least one audiovisual programme received, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, the activation assembly comprising:

a recognition unit for recognizing said synchronization signals in at least one transmitted stream carrying said audiovisual programme, by recognition of at least one extracted portion of the content of said audiovisual programme, by means of recognition elements making it possible to obtain said portion and recorded in a storage space, (Page 10, Lines 1-11) and

an activation unit designed to trigger at least one action in case of detection of said synchronization signals by the recognition unit, (Page 9, Lines 11-24)

wherein at least one of said recognition and activation units is designed to delay the triggering of said action by at least a determined timeout lag, in case of detection of said synchronization signals, (Page 9, Lines 11-24)

said recognition unit preferably being.

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Regarding claim 41,

wherein said activation assembly is designed to receive said timeout lag with said recognition elements. (Page 8, Lines 14-24)

Regarding claim 42,

synchronization system comprising:

a specification unit for specifying synchronization signals associated with at least one audiovisual programme, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, (Page 6, Lines 10-13)

a recognition unit for recognizing said synchronization signals in at least one transmitted stream carrying said audiovisual programme, by recognition of at least one extracted portion of the content of said audiovisual programme, in the audiovisual programme received, (Page 10, Lines 1-11) and

an activation unit designed to trigger at least one action in case of detection of said synchronization signals by the recognition unit, the recognition unit and the activation unit forming an activation assembly, (Page 9, Lines 11-24)

wherein the specification unit is designed to prepare and transmit to the recognition unit recognition elements making it possible to obtain said extracted portion, as well as at least one action timeout lag in case of detection of said synchronization signals, and in that the activation assembly is capable of delaying the triggering of said

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action according to said lag transmitted, in case of detection of said synchronization signals, (Page 8, Lines 14-24)

the specification unit preferably being in accordance with claim 37 and the activation assembly.

Regarding claim 43,

broadcasting centre, wherein it comprises a device chosen from among at least a specification module in accordance with claim 37, a recognition module, an activation assembly, and a synchronization system. (Fig. 1)

Regarding claim 44,

services operator, wherein it comprises a device chosen from among at least a specification module in accordance with claim 37, a recognition module, an activation assembly, and a synchronization system. (Fig. 1)

Regarding claim 45,

terminal for receiving audiovisual programmes, wherein it comprises a device chosen from among at least a specification module in accordance with claim 37, a recognition module, an activation assembly, and a synchronization system. (Fig. 1)

Regarding claim 46,

method of activation by recognition of synchronization signals in at least one audiovisual programme received, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, said method comprising the following steps:

reception of at least one transmitted stream carrying said audiovisual programme, (Page 10, Lines 9-11)

detection of said synchronization signals in said audiovisual programme received by means of recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme and stored in a storage space, by recognition of said extracted portion, in the content of said audiovisual programme, (Page 10, Lines 1-11) and

triggering of at least one action in case of detection of said synchronization signals in said audiovisual programme, (Page 9, Lines 17-24)

wherein the triggering of said action is delayed by at least one determined lag in case of detection of said synchronization signals, (Page 9, 17-24)

said recognition method preferably being implemented by means of an activation assembly. (106 of Fig. 1)

Regarding claim 47,

method of specifying synchronization signals associated with at least one audiovisual programme, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, said synchronization signals

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being intended to be detected in at least one transmitted stream carrying said audiovisual programme and thus to trigger at least one action, (Page 6, Lines 10-13)

wherein said method of specification comprises the following steps:

preparation of recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme, (Page 6, Lines 10-13)

transmission of said information independently of transmissions of said audiovisual programme, for detection of said synchronization signals in said transmitted stream carrying said audiovisual programme, by recognition of said extracted portion in the content of said audiovisual programme, (Page 6, Lines 14-17) and

transmission of at least one action timeout lag in case of detection of said synchronization signals independently of transmissions of said audiovisual programme, (Page 8, Lines 14-24)

said specification method preferably being implemented by means of a specification unit. (110 of Fig. 1)

Regarding claim 48,

synchronization method comprising the following steps:

a step of specifying synchronization signals associated with at least one audiovisual programme, said audiovisual programme comprising an audiovisual content intended to be broadcast to users and control information, in which recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme are specified for said detection, (Page 6, Lines 10-13)

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a step of detecting said synchronization signals in at least one transmitted stream carrying said audiovisual programme, in which said synchronization signals are detected in said audiovisual programme received, by recognition of said extracted portion in the content of said audiovisual programme, (Page 10, Lines 1-11) and

a step of triggering at least one action in case of detection of said synchronization signals, (Page 9, Lines 11-24)

wherein the triggering of said action is delayed by at least one determined lag in case of detection of said synchronization signals, (Page 9, Lines 11-24)

said synchronization method preferably being implemented by the synchronization system of claim 17.

Regarding claim 49,

wherein said audiovisual programmes comprise at least one recognition part containing at least one of said recognition portions, and at least one live transmission intended to be broadcast following said recognition part, in such a way that said synchronization signals are detected during the broadcast of said recognition part and that said action is triggered during the broadcast of said following live transmission, by means of said timeout lag. (Page 8, Line 14 – Page 11, Line 11)

Regarding claim 50,

wherein said audiovisual programmes comprise at least one recognition part containing at least one of said recognition portions, and at least one live transmission

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intended to be broadcast following said recognition part, in such a way that said synchronization signals are detected during the broadcast of said recognition part and that said action is triggered during the broadcast of said following live transmission, by means of said timeout lag. (Page 8, Line 14 – Page 11, Line 11)

Regarding claim 51,

wherein said audiovisual programmes comprise at least one recognition part containing at least one of said recognition portions, and at least one live transmission intended to be broadcast following said recognition part, in such a way that said synchronization signals are detected during the broadcast of said recognition part and that said action is triggered during the broadcast of said following live transmission, by means of said timeout lag. (Page 8, Line 14 – Page 11, Line 11)

Regarding claim 52, this claim is substantially the same as claim 46; same rationale of rejection is applicable.

Regarding claim 53, this claim is substantially the same as claim 47; same rationale of rejection is applicable.

Regarding claim 54, this claim is substantially the same as claim 48; same rationale of rejection is applicable.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solvason in view of Blackketter et al. (Blackketter hereafter) (US 2002/0056129 A1) (Applicant's IDS dated 12/28/2004).

Regarding claim 33, Solvason fails to explicitly teach,

wherein said recognition elements include at least one channel reference, said detection module being designed to detect said portions of content in conjunction with said channel reference and the transmission module being designed to transmit said action instructions in the case of such deletion.

However, Blackketter teaches,

wherein said recognition elements include at least one channel reference, said detection module being designed to detect said portions of content in conjunction with said channel reference and the transmission module being designed to transmit said action instructions in the case of such deletion. (Par. 0013)

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of Solvason to include the above recited limitations as

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taught by Blacketter in order to allow the user to be able to change channels but still have the action execute once the user puts back the channel. (Par. 0013)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOEL BEHARRY whose telephone number is (571)270-5630. The examiner can normally be reached on M-T 10-2.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. B./

Examiner, Art Unit 2446

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2446

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